REMARKS

Claim 13 was objected to because it referred to "the second server" for which there was insufficient antecedent support. Through this amendment, claim 13 has been amended to make clear that it is the first server that is being referred to. The withdrawal of the objection to claim 13 is respectfully requested.

Claims 12 and 14 were rejected under 35 U.S.C. § 112 for reciting "the priority list" for which there was insufficient antecedent basis for. Claims 12 and 14 have been amended herein to eliminate such informalities. Applicant respectfully requests the withdrawal of the 35 U.S.C. § 112 rejection of Applicant's claims 12 and 14.

Claims 1, 6-15 and 17-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chrabaszcz, U.S. Patent No. 6,134,673 in view of Langer et al., U.S. Patent No. 5,381,554.

Through this amendment, Applicant has amended independent claim 1 to include the essence of originally filed claim 11. Specifically, claim 1 now includes a limitation "shifting a group of high priority activities to a first server in the cluster in response to the power interruption signal." The Examiner with regards to the originally filed claim 11 stated "Langer teaches keeping servers with the highest priorities operational the longest amount of time." The Examiner refers the Applicant to column 4, lines 59-65 of the Langer reference. For the Examiner's convenience column 4, lines 59-65 of the Langer reference are replicated below.

> In the arrangement illustrated, UPS 95 supplies power to loads 100-103, having priorities 0, 1, 2 and 3 respectively. The assigned priority for each load determine how long it will receive power from the UPS in the event of shutdown, as is illustrated below in connection with the discussion of the flow diagram for controlling shutdown.

Applicant notes that neither the section indicated by the Examiner nor any other section of the Langer or Chrabaszcz reference discloses moving loads from one server to another based upon its priority much less in response to a power interruption signal. Therefore, Applicant believes that claim 1 as presently amended and the claims dependent thereon are allowable over the cited art.

With regards to Applicant's claims 7 and 18, the Examiner rejected these claims based upon the Examiner taking "official notice" that it is well known in the art to receive a power interruption signal in response to a network administrator command. Applicant respectfully

challenges the factual assertion stated by the Examiner and believes that this assertion is not a proper basis for Official Notice. Specifically, Applicant is unaware that it is common practice to receive a power interruption signal in response to a network administrators command as required by Applicant's claims 7 and 18. Applicant believes that a typical way to shut down a server may include sending a command to the server to shut down, however, Applicant is unaware that it is common or well known to do so by shutting down a UPS attached to a server. Applicant respectfully requests the Examiner submit a prior art reference in support of this presumption or provide an affidavit or declaration setting forth specific factual statements and explanation to support the Examiner's findings such that Applicant may respond appropriately.

With regards to Applicant's claim 8. The Applicant agrees with the Examiner that neither Langer nor Chrabaszcz disclose "diverting low priority activities to another server in the cluster." As neither reference teaches this feature or suggest this feature, Applicant respectfully disagrees with the Examiner's assertion that "it would have been obvious to one of ordinary skill in the art to divert the first set of lower-priority activities to another server in the cluster if first set of lower-priority activities are still required to be functioning." Applicant respectfully points out that a § 103 rejection of a claim requires a motivation or suggestion in the references to combine the references. In this case, there is no motivation or suggestion to combine these references. And further, if they are combined, they do not teach or suggest this limitation as claimed in claim 8. For at least these reasons, Applicant believes that claim 8 is allowable over the cited art.

Regarding Applicant's claim 12, Applicant has amended claim 12 to now include the limitation "programmatically identifying the first server as a server hosting a highest priority activity and diverting power resources from all other cluster servers to the first server." The Examiner in response to Applicant's claim 12 stated "Langer teaches diverting all power reserves to the server that executes tasks of the highest priority" and referred Applicant to column 6, lines 13-16 of the Langer reference. For the convenience of the Examiner, lines 13-16 of column 6 of the reference are replicated below.

> At 140, the UPS waits until only one minute is remaining, and then at 142 causes the
> PDM to open the breaker or breakers that feed the priority level 2 devices.

A fair reading of the section detailed above, and the rest of column 6, indicates that Langer does not teach programmatically determining a highest priority activity and then directing power to a server that hosts that activity as required by applicants claim 12. For at least this reason, Applicant believes that claim 12 as presently amended is allowable over the cited art.

Through this Office Action, Applicant has submitted a new claim 28 which includes the limitation "wherein the second server is hosting activities in the low priority group" which is dependent upon claim 1. Applicant does not believe that this limitation is taught by either the Langer or Chrabaszcz references whether taken alone or in combination. Additionally, claim 28 would be allowable for the reasons detailed with claim 1 above.

With regard to Applicant's claim 14, as presently amended, claim 14 includes the limitations "programmatically identifying a priority server hosting a highest priority activity", "diverting power resources from all servers to the priority server, in response to the power interruption signal" and "incrementally shutting down lower-priority activities on the priority server as power reserves dwindle." Applicant has found no reference individually or in combination in the Langer or Chrabaszcz references which disclose or suggest programmatically identifying a priority server that is hosting a highest priority activity and diverting power resources from all other servers to the priority server in response to a power interruption signal. Additionally, Applicant believes that, at most, the Langer and Chrabaszcz references may teach incrementally shutting down loads connected to specific predetermined power connections as the power reserves dwindle. This is different than determining programmatically which server to keep powered at the expense of other servers. For at least these reasons, Applicant believes that claim 14 as presently amended is allowable over the cited art.

With regards to Applicant's independent claim 15, claim 15 as presently amended includes the limitation "programmatically identifying a first server hosting a first set of lower-priority activities within the cluster." Applicant has found no reference in either the Langer or the Chrabaszcz reference whether taken alone or in combination that teaches or suggests programmatically identifying a first server hosting a first set of lower-priority activities and "diverting power reserves of the first server to another server in the cluster, in response to the power interruption signal" as required in Applicant's independent claim 15. For at least these reasons, Applicant believes that independent claim 15 and the claims dependent thereon are allowable over the cited art.

With regards to Applicant's claim 19, Applicant submits that neither Langer nor Chrabaszcz references whether taken alone or in combination teach or suggest "diverting the first set of lower-priority activities to another server in the cluster." Applicant therefore respectfully disagrees with the Examiner's statement that "It would have been obvious to one of ordinary skill in the art to divert the first set of lower-priority activities to another server in the cluster if first set of lower-priority activities are still required to be functioning." As neither reference teaches this feature, Applicant submits that apparently it was not obvious to Langer or Chrabaszcz. As neither reference teaches or suggests this limitation, for at least this reason, Applicant believes that Applicant's claim 19 is allowable over the cited art.

Applicant's claim 21 includes the limitation "incrementally shutting down lower-priority activities on the second server as power reserves dwindle." The Examiner stated that "Langer teaches incrementally shutting down lower-priority activities as power reserves dwindle" and refers Applicant to column 4, lines 57-65. For the Examiner's convenience, column 4, lines 57-65 of the Langer reference are replicated herein.

> The PDM contains logic controlled breakers which allow for selective load shedding of the various loads supplied by UPS 95. In the arrangement illustrated, UPS 95 supplies power to loads 100-103, having priorities 0, 1, 2 and 3 respectively. The assigned priority for each load determine how long it will receive power from the UPS in the event of shutdown, as is illustrated below in connection with the discussion of the flow diagram for controlling shutdown.

A fair reading of this section would not indicate that a particular server shuts down lower-priority activities as power reserves dwindle. Specifically Langer teaches shutting down entire loads base on some arbitrary priority basis which is a substantially different concept. Applicant believes that neither Chrabaszcz nor Langer whether taken alone or in combination teach or suggest this limitation in claim 21 and therefore Applicant believes that claim 21 is allowable over the cited art.

With regards to Applicant's independent claim 22, claim 22 as presently amended includes the limitation "means for programmatically identifying a first server hosting a first set of lower-priority activities within the cluster." Neither the Langer or Chrabaszcz reference taken alone or in combination teach programmatically identifying servers that have activities of any particular priority. For this reason and as discussed previously in association with Applicant's
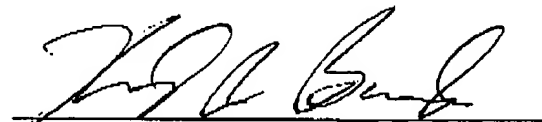
independent claim 15, Applicant believes that claim 22 as presently amended is allowable over the cited art.

With regards to Applicant's independent claim 23, Applicant has amended claim 23 to include the limitations "multiple power reserves coupled to the server", "a switch matrix coupled to direct the multiple power reserves between the servers" and "switch matrix to divert all of the multiple power reserves from servers hosting low QoS activity sets to servers hosting high-priority activity sets, in response to a power interruption." By this amendment, Applicant has made clear that all of the power reserves from all of the servers are connected to a matrix such that the switch matrix can direct the power to one or more servers hosting high priority activity sets. Applicant believes that none of the cited references whether taken alone or in combination teach or suggest this feature. For at least this reason, Applicant believes that independent claim 23 and the claims dependent thereon are allowable over the cited art.

In view of the amendments and remarks herein, Applicant respectfully requests that the Examiner withdraw the § 102 rejections of Applicant's claims and allow the case to go to issue. Should the Examiner feel that a telephonic interview with the attorney would be helpful to forward the prosecution of this matter, the Examiner is respectfully requested to contact the attorney Howard Boyle at telephone number (281) 518-9645.

Respectfully submitted,

Date: January 6, 2005

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